

# House Resolution No. 4892

## 99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BEARD.

4592H.011

D. ADAM CRUMBLISS, Chief Clerk

1           **WHEREAS**, the state of Missouri has an interest in protecting the public health; and

2  
3           **WHEREAS**, minors should be protected from exposure to obscenity through products  
4 sold by manufacturers and wholesalers that access the internet; and

5  
6           **WHEREAS**, consumers should have the freedom to choose to avoid exposure to  
7 obscenity without consent; and

8  
9           **WHEREAS**, ignorance of the law is no excuse and "obscene" materials and  
10 performances are clearly defined under section 573.010; and

11  
12           **WHEREAS**, easily accessible pornography through use of products that access the  
13 internet is impacting the demand for human trafficking and causing sexual voyeurism; and

14  
15           **WHEREAS**, the state of Missouri has an interest to prevent the manufacturers and  
16 wholesalers of products that access the internet from facilitating human trafficking and allowing  
17 consumers to indirectly contribute to human trafficking; and

18  
19           **WHEREAS**, the ability of manufacturers and wholesalers to easily promote obscenity  
20 that objectifies women, encourages child exploitation, and increases domestic violence should  
21 be discouraged; and

22  
23           **WHEREAS**, the United States Supreme Court has established that the secondary harmful  
24 effects of pornography consumption are undeniable; and

25  
26           **WHEREAS**, a filter deactivation tax should be levied as a matter of general equity to the  
27 existing sin taxes imposed on strip clubs, cigarettes, and alcohol and to offset the secondary  
28 harmful effects and burden on the state that stem from exposure to pornography using products  
29 that access the internet; and

30           **WHEREAS**, obscenity has never been in the area of protected speech and is harmful  
31 speech that may be regulated; and

32

33           **WHEREAS**, manufacturers and wholesalers of products that access the internet should  
34 not be treated or regulated differently than brick-and-mortar pornography shops; and

35

36           **WHEREAS**, the sellers of products that access the internet arguably amount to a  
37 miniature wholesaler or retailer that is an extension of the primary manufacturer and wholesaler  
38 under vicarious liability and agency law; and

39

40           **WHEREAS**, products of manufacturers and wholesalers that access the internet are  
41 arguably subject to section 573.060 regarding the public display of explicit sexual materials,  
42 including newsstands, which require sexual magazines be hidden behind a blinder rack; and

43

44           **WHEREAS**, products that access the internet arguably never fully leave the  
45 instrumentality and control of the manufacturer or wholesaler and, thus, elevate the duty of care  
46 owed by the manufacturer or wholesaler under product liability laws; and

47

48           **WHEREAS**, the state of Missouri has personal jurisdiction over the wholesalers within  
49 the state that sell products that access the internet and make the content accessible; and

50

51           **WHEREAS**, online pornography amounts to an advertisement for actual prostitution in  
52 normalizing false permission-giving beliefs; and

53

54           **WHEREAS**, the link between human trafficking and easily accessible pornography  
55 online is insurmountably established; and

56

57           **WHEREAS**, obscenity is not protected speech for purposes of the first amendment under  
58 *Miller v. California*, 413 U.S. 15 (1973); and

59

60           **WHEREAS**, the United States Supreme Court found that Congress can pass filter  
61 legislation to regulate the Tech Enterprise as the least restrictive means under *Ashcroft v. ACLU*,  
62 542 U.S. 656 (2004) and *Ginsberg v. New York*, 390 U.S. 629 (1968) and that such laws will  
63 survive first amendment heightened scrutiny challenge; and

64

65           **WHEREAS**, the burden should be shifted off those who want to avoid being exposed  
66 to obscene speech and onto those who want to assume the risks that come from accessing  
67 obscene content, thus encouraging clean speech and discouraging harmful speech; and

68

69           **WHEREAS**, the products sold by manufacturers and wholesalers that access the internet  
70 act like pornographic vending machines and should be subject to strict liability in the same way  
71 that cigarette vending machines are; and

72

73           **WHEREAS**, “prevention” not “prosecution” should be the first response to sex crimes  
74 including, but not limited to, human trafficking, prostitution, domestic violence, child  
75 pornography, and  
76 revenge pornography; and

77

78           **WHEREAS**, obscenity, which is obtainable through products that access the internet,  
79 inspires and encourages such sex crimes; and

80

81           **WHEREAS**, manufacturers and wholesalers of products that access the internet should  
82 warn adult consumers of the harm of accessing obscene content if such consumers opt out of  
83 filtering obscene content; and

84

85           **WHEREAS**, manufacturers and wholesalers of products that access the internet should  
86 maintain the quality of a filter to protect children and consumers from unwanted exposure to  
87 obscene material; and

88

89           **WHEREAS**, websites that are known prostitution and human trafficking hubs should  
90 be harder to access in order to reduce the burden imposed on law enforcement, the justice  
91 system, and the victims of human trafficking; and

92

93           **WHEREAS**, manufacturers and wholesalers of products that access the internet should  
94 comply with their publicly acknowledged “moral responsibility” to keep pornography off of their  
95 products by default; and

96

97           **WHEREAS**, manufacturers and wholesalers of products that access the internet should  
98 not engage in false advertising by marketing filterless products as if they were “family friendly”;

99 and

100

101           **WHEREAS**, the state of Missouri should make the objective “easy choice” and the  
102 “right choice” to protect emotional, mental, relational, reproductive, sexual, and spiritual health  
103 of its citizens in light of the truth about human nature and the way things are; and

104

105           **WHEREAS**, manufacturers and wholesalers of products that access the internet should  
106 give consumers the fundamental right to regulate their own mental health; and

107

108           **WHEREAS**, the state of Missouri should not only declare that pornography is a public  
109 health crisis but should also impose a common sense filter solution that accords with the First  
110 Amendment and that serves to push obscenity back underground from whence it came before the  
111 manufacturers and wholesalers of products that access the internet brought it above ground due  
112 to their collective disregard of the obscenity codes; and

113

114           **WHEREAS**, making manufacturers and wholesalers install filters will mitigate the harm  
115 caused by the nonconsensual dissemination of private sexual images also known as revenge  
116 pornography; and

117

118           **WHEREAS**, making manufacturers and wholesalers of products that access the internet  
119 install filters will protect consumers from stumbling across child pornography and incurring  
120 criminal liability under section 573.037; and

121

122           **WHEREAS**, manufacturers and wholesalers of products that access the internet who set  
123 up a reporting website, call center, or both will be better enabled to report improper material to  
124 law enforcement in step with their existing duty under 18 U.S.C. Section 2258A; and

125

126           **WHEREAS**, manufacturers and wholesalers of products that access the internet who  
127 create a call center or reporting website will allow consumers to report content that is being  
128 filtered that is not obscene; and

129

130           **WHEREAS**, filters will better protect manufacturers and wholesalers of products that  
131 access the internet from distributing false and misleading domain names in violation of 18  
132 U.S.C. Section 2252B; and

133

134           **WHEREAS**, the constitutionality of a twenty-dollar filter deactivation tax is the same  
135 as the legal justification for the five-dollar poll tax imposed on adult entertainment

136 establishments upheld by the Texas Supreme Court in *Combs v. Tex. Entm't Ass'n*, 347 S.W.3d  
137 277 (Tex. 2011); and

138

139 **WHEREAS**, revenue from a twenty-dollar filter deactivation tax could completely  
140 finance the crime victims' compensation fund created under section 595.045; and

141

142 **WHEREAS**, revenue from a twenty-dollar filter deactivation could provide grants to  
143 governmental and nongovernmental groups that are working against indecency, sexual assault,  
144 human trafficking, domestic violence, and divorce; and

145

146 **WHEREAS**, sex-related claims to the crime victims' compensation fund have been on  
147 the rise in recent years; and

148

149 **WHEREAS**, the crime victims' compensation fund will not sua sponte finance itself:

150

151 **NOW THEREFORE BE IT RESOLVED** that we, the members of the Missouri House  
152 of Representatives, Ninety-ninth General Assembly, Second Regular Session, hereby express  
153 support for legislation that protects the citizens of this state from obscene material and people  
154 everywhere from the secondary effects of obscene material by requiring a filter be placed on  
155 devices that access the internet; and

156

157 **BE IT FURTHER RESOLVED** that the Chief Clerk of the Missouri House of  
158 Representatives be instructed to prepare a properly inscribed copy of this resolution for the  
159 Speaker of the Missouri House of Representatives, the President Pro Tempore of the Missouri  
160 Senate, and the Governor of Missouri.

✓